**THE HON'BLE MR JUSTICE V.V.S.RAO**

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WRIT PETITION No.27008 of 2005

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Dated:27.12.2005

Between:

Juvvanapudi Lakshmayya, S/o.J.Anjaiah,

and others.

... Petitioners

AND

The District Collector, Krishna, Machilipatnam

And others

...Respondents

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WRIT PETITION No.27008 of 2005

ORDER:

The three petitioners claim that they have been cultivating the land admeasuring Acs.2.60 forming part of land comprised in R.S.Nos.17 and 36 of Atchampalem hamlet of Srikakulam village of Ghantasala Mandal in Krishna District. They claim to be in possession of the land for more than 60 years. They allegedly submitted an application on 30.3.1988 to the fourth respondent namely, the Mandal Revenue Officer (MRO), Ghantasala Mandal, requesting assignment of the land. They also allege that on a request made by them, the Executive Engineer (Drainage Division) as well as the Sarpanch of the Gram panchayat did not raise any objection for assignment. In the meanwhile, the sixth respondent requested the MRO for laying a road in the land in question, which the MRO refused on the ground that there are already four roads i.e., donka roads. The sixth respondent questioned the decision of the MRO before the second respondent, who directed the authorities to lay a pathway with 30 links width in the field and five links in the field channel in R.S.Nos.17 and 36. Pursuant to such direction, respondents 2 and 3 initiated

proceedings for laying the road, aggrieved by which, the first petitioner herein preferred a review petition and the same is pending. As the respondents started taking necessary steps for laying the road, the present writ petition is filed. The petitioners pray for a declaration that the action of the respondents in laying the road in the middle of the fields in R.S.Nos.17 and 36 pending consideration of assignment proceedings as illegal and arbitrary.

The learned Counsel for the petitioners strenuously contends that when the petitioners' application for assignment of the land is pending, it would be illegal and improper for the respondents 2 and 3 to lay the road in the lands under occupation of the petitioners and it is only to help the sixth respondent. He emphatically submits that the road is being laid for the benefit of sixth respondent though there are other roads, which are being used as pathways. **Per contra**, the learned Assistant Government Pleader for Revenue (General), after getting instructions in the matter, submits that the land in R.S.No.17 is classified as drain poramboke and the land in R.S.No.36 is classified as donka poramboke. Therefore, the existing pathway is being strengthened, as directed by the second respondent in order dated 18.6.2004.

A perusal of the proceedings of the Joint Collector dated 18.6.2004 would show that about 20 villagers of Atchampalem village filed a representation before the Joint Collector requesting for eviction of encroachers in the land in R.S.Nos.17 and 36 for the purpose of pathway and also for restoration of field channel. The Revenue Divisional Officer (RDO), Bandar conducted enquiry on the representation and submitted report to the effect that there is a drain course in R.S.No.22 and a small drain course below R.S.Nos.35, 131 and 129, which is a donka. The small drain course started below the R.S.No.131 ended upto R.S.No.35 merged with the big drain course in R.S.No.22 and that R.S.No.17 is classified as drain poramboke whereas R.S.No.36 is classified as pathway poramboke. The RDO also conducted field inspection during which he asked the encroachers to give seven links field channel and a part of the donka poramboke, in vain. Therefore, he suggested to provide 30 links pathway and five links field channel for both the porambokes for which the land is earmarked. After considering the same, a direction was issued to the second respondent to take up the work as noticed herein above. The order of the Joint Collector would show that the land encroached upon by the petitioners is classified as drain poramboke and donka poramboke (pathway poramboke) and therefore, even if the petitioners' application for assignment is pending, the same does not in any manner prohibit the respondents to take up the work. As per Board Standing Order 15, the assignment of donka porambokes, drain porakbokes and such other lands is prohibited. The petitioners, therefore, may make an application for assignment of land, which is classified as assessed waste and is not intended for other purposes. When the land, which is earmarked as donka poramboke and drain poramboke, is being restored to its original possession, this Court cannot interfere in exercise of jurisdiction under Article 226 of Constitution of India.

The writ petition is, accordingly, dismissed. No costs.

(**V.V.S.RAO, J**)

December 27, 2005.

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